

INTRODUCTION

1. Plaintiff Homa Games SAS (“Homa”) is a leading video game company at the forefront of the casual mobile gaming market. Casual mobile games are intuitive games with low barriers to entry and relatively straightforward gameplay. Such games are typically free-to-play, with game developers earning revenue from in-app purchases and advertising. Thus, user engagement is critical for a casual game’s success, and the temptation to copy an already successful game, with a proven track record and built-in audience is strong.

2. Homa brings the instant action against Defendants to protect its intellectual property rights in Homa's popular game *All in Hole*. *All in Hole* is a mobile game where users manipulate a colorful "black hole" to capture objects and solve puzzles. Following the success of *All in Hole*, Defendants released their own black hole game, which is titled *Food Swept* on Google Play and *Yummy Hole Puzzle* on the Apple App Store (but is the same game). However, rather than engage in the time and effort of creating their own original game, Defendants meticulously copied *All in Hole* level by level and element by element, including at least 503 JavaScript Object Notation ("JSON") files from *All in Hole*'s computer code.

3. *Food Swept / Yummy Hole Puzzle* deliberately mimics the theme, look and feel, level designs, maps, color combinations, specific shapes and objects, graphic and sound effects, game progression, game interface, and numerous other specific protectable elements of *All in Hole* as detailed further below.

4. To remedy this willful infringement, Homa brings this suit for injunctive relief, damages, and Defendants' unjust profits resulting from this infringement.

THE PARTIES

5. Homa is a corporation duly organized and existing under the laws of France, headquartered in Paris. Homa also has personnel in the United States, including in San Francisco, California and Los Angeles, California. Homa is a market leader in the competitive casual gaming market and is in the business of producing,

1 developing, publishing, distributing, and marketing a catalog of high-quality mobile
 2 game products, including *All in Hole*. The United States is Homa's largest market for
 3 its games, including *All in Hole*.

4 6. Homa is informed and believes, and on that basis alleges, that Defendant
 5 IEC Games Australia Pty Ltd ("IEC") is the publisher of the game titled *Food Swept*
 6 / *Yummy Hole Puzzle* and is responsible for the creation, development, and
 7 distribution of *Food Swept / Yummy Hole Puzzle*.

8 7. Homa is informed and believes, and on that basis alleges, that Defendant
 9 IEC Global Pty Ltd ("IEC Global") is a holding company or otherwise IEC's affiliated
 10 company. Both IEC and IEC Global are registered and operated under the laws of
 11 Australia, and both companies have similar website designs and game portfolios.
 12 According to both IEC's and IEC Global's Facebook and LinkedIn pages, both
 13 companies' primary development facilities are concentrated in Vietnam.

14 8. Homa is informed and believes, and on that basis alleges, that IEC and
 15 IEC Global together are responsible for and directly participated in the infringing
 16 conduct alleged herein.

17 9. The true names and capacities, whether individual, corporate, associate,
 18 or otherwise, of the Defendants sued herein as Does 1-10 inclusive, are unknown to
 19 Homa, which has therefore sued said Defendants by such fictitious names. These
 20 Defendants may include individuals whose real identities are not yet known to Homa,
 21 but who are acting in concert with one another in committing the unlawful acts alleged
 22 herein. Homa will amend this complaint to state Defendants' true names and
 23 capacities once they are ascertained. Homa is informed and believes, and on that basis
 24 alleges, that all Defendants sued herein are liable to Homa as a result of their
 25 participation in all or some of the acts set forth in this complaint.

26 10. Homa is informed and believes, and on that basis alleges, that at all times
 27 mentioned in this complaint, each of the Defendants was the agent of each of the other
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1 Defendants and, in doing the things alleged in this complaint, was acting within the
 2 course and scope of such agency.

3 **JURISDICTION AND VENUE**

4 11. This is a civil action seeking damages, injunctive relief, and other
 5 equitable relief under the Copyright Act, 17 U.S.C. § 101 *et seq.*

6 12. This Court has subject matter jurisdiction over Homa's claims for
 7 copyright infringement pursuant to 28 U.S.C. §§ 1331 and 1338(a).

8 13. This Court has personal jurisdiction over Defendants because they have
 9 a substantial presence in, and purposefully directed their activities at, the United
 10 States, and at California in particular, and have purposefully availed themselves of
 11 the benefits of doing business in California. Homa is informed and believes, and on
 12 that basis alleges, that, without limitation:

13 (a) Defendants intentionally chose to distribute *Food Swept /*
 14 *Yummy Hole Puzzle* in the United States and the State of
 15 California through the Google Play and Apple App Store (“App
 16 Store”). Homa is informed and believes, and on that basis
 17 alleges, that Defendants intentionally uploaded *Food Swept /*
 18 *Yummy Hole Puzzle* to servers located in the United States,
 19 specifically requested that the Google Play and App Store
 20 distribute *Food Swept / Yummy Hole Puzzle* worldwide,
 21 including in the United States, and deliberately chose not to
 22 exclude or block customers in the United States from accessing
 23 and downloading *Food Swept / Yummy Hole Puzzle*.

24 (b) Defendants have targeted their games, including *Food Swept /*
 25 *Yummy Hole Puzzle*, to United States customers, including by
 26 intentionally directing advertising for their games to U.S.
 27 customers, promoting their games via English language
 28 websites and Facebook pages, and offering English language

1 customer support to U.S. customers. As set forth below,
2 Defendants know and intend that their games are played by U.S.
3 customers and thus have included specific terms in their Terms
4 of Service and Privacy Policy directed at customers in the
5 United States and in the State of California.

6 (c) Defendants conduct extensive and ongoing business with
7 customers in the United States and the State of California,
8 including through in-game purchases made by customers in the
9 United States and the State of California. Defendants promote
10 and advertise those in-game purchases in U.S. Dollars. Homa is
11 informed and believes, and on that basis alleges, that such in-
12 game purchases include charges in U.S. Dollars made to
13 customers by California-based Apple and Google, which then
14 take up to a 30% platform fee (and other assessed charges) in
15 California before remitting any payment (also in U.S. Dollars)
16 to Defendants.

17 (d) Defendants engage in substantial business activities and
18 maintain a substantial business presence with respect to their
19 games in the United States, and particularly in the State of
20 California. For example, Homa is informed and believes that
21 Defendant IEC Global engages attorneys based in the United
22 States and has taken advantage of the U.S. legal system,
23 including by applying for U.S. trademark registrations.

24 (e) Defendants have directed their unlawful activities at Homa,
25 including by deliberately copying and appropriating Homa's
26 copyrighted content. Defendants did so knowing and intending
27 that Homa would be harmed by their conduct, including in the
28 United States where Homa has personnel.

1 (f) Defendants advertise and market *Food Swept / Yummy Hole*
2 *Puzzle* in the United States and the State of California, and
3 communicate directly with users in the United States, including
4 for the purposes of soliciting downloads of *Food Swept /*
5 *Yummy Hole Puzzle* by such users. According to Sensor Tower,
6 *Food Swept / Yummy Hole Puzzle*'s top markets are United
7 States, India, and Russia.¹ Additionally, IEC's Terms of Service
8 has California choice of law and choice of venue provisions,
9 and IEC's Privacy Policy specifically offers a path for
10 California residents to exercise their privacy rights.²

16 14. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b) because
17 this is a judicial district in which a substantial part of the events giving rise to the
18 claims occurred, or, in the alternative, there is no district in which an action may
19 otherwise be brought, and Defendants are subject to the Court's personal jurisdiction
20 in this district with respect to this action.

FACTS APPLICABLE TO ALL CLAIMS

Homa and Its Games

23 15. Homa is a leading mobile developer and publisher in the business of
24 developing, publishing, and marketing original, high-quality mobile games. By
25 exploring innovative mechanics and unique game designs, Homa ensures that its
26 games deliver engaging and fresh experiences for players worldwide. This

¹ <https://app.sensortower.com/overview/com.food.swept?country=US>

² <https://termofservice.iecglobal.com.au/>; <https://iecgames.com.au/privacy-policy/>

1 commitment to innovation allows Homa to remain at the forefront of the gaming
2 industry while continuously expanding its creative portfolio.

3 16. Homa has developed unique expertise in the market of casual games.
4 Casual games are characterized by intuitive gameplay, using carefully designed
5 interfaces that are easy for players to learn, as well as using specifically tailored visual
6 elements that include cues, or settings to engage players in short, set durations of
7 gameplay. As a result of Homa's expertise and creative vision, its games are
8 frequently at the top of the app store charts and are among the most popular mobile
9 titles in the world.

10 17. The casual games market is a growing and heavily competitive sector.
11 Because the business model for casual gaming is primarily driven by in-app purchases
12 and advertisement-based revenue, developers of casual games rely heavily on player
13 engagement. Game developers whose games engage the greatest share of players and
14 whose portfolio of work can capture the market are the most successful. However,
15 due to the straightforward and intuitive nature of casual games, once a developer
16 creates and publishes original creative content, it becomes particularly susceptible to
17 “copycat” competitors who can easily replicate the developer’s creative elements and
18 release their own clones of the original work. And because casual games are typically
19 free and have low barriers to entry, player loyalty and market share can shift quickly.

Homa's Game *All In Hole*

18. *All in Hole* is a prime example of a successful casual game that has been
well-received by players, and, as a result, has drawn the attention of competitors and
copycats. *All in Hole* is in the genre of “puzzle games,” which means a game designed
to test problem-solving skills including pattern recognition, logic, word completion,
or understanding a process.

26 19. *All in Hole* was developed and published by Homa on June 17, 2023.
27 The game was first released on Google Play on March 11, 2024, and on the App Store
28 on June 7, 2024. It quickly became popular among users: As of January 14, 2025, for

1 iPhone users in the United States, *All in Hole* was the No. 54 puzzle game based on
 2 monthly downloads, and the No. 29 puzzle game based on monthly in-app revenue,
 3 according to data.ai.³ The game's user rating was 4.9/5 on App Store and 4.7/5 on
 4 Google Play. Since its release, *All in Hole* has been downloaded on Google Play more
 5 than one million times. As described by a leading industry blog, the Deconstructor of
 6 Fun, the game is "fantastic," "a ton of fun to play," and "one of the best
 7 implementations of hybrid casual playbook."⁴

8 20. *All in Hole* is a vibrant and engaging puzzle adventure where players
 9 control a powerful black hole to eat and sort objects while solving a variety of
 10 increasingly complex challenges. *All in Hole* combines puzzle-solving mechanics
 11 with satisfying physics-based gameplay. In the game, players help Molly, a
 12 mischievous mole character, to navigate through colorful levels and unique maps
 13 while consuming and sorting objects on the playing field by adjusting angles,
 14 manipulating obstacles, and strategically using in-game tools. Developed for
 15 relaxation and entertainment, the game combines strategy, creativity, and social
 16 interaction. Each level introduces unique tasks—such as sorting objects, unlocking
 17 recipes, or decorating cakes—blending problem-solving with creativity.

18 21. In *All in Hole*, players progress through a series of increasingly
 19 challenging levels, each of which offers new and unique artistic and gameplay
 20 elements. Each of *All in Hole*'s levels has been painstakingly designed by Homa's
 21 development team to provide fresh challenges for the player, and these levels
 22 represent a substantial investment of creative time and energy. Players are
 23 incentivized to complete levels through an engaging rewards system. Prizes include
 24 energy boosts, time extensions, and collectible items that aid the player's further
 25 progress. The more objects players collect and sort, and the faster they do so, the
 26 greater their rewards, offering players a sense of achievement and progression.

27 28³ <https://www.pocketgamer.com/all-in-hole-sinkhole-puzzle/out-now-on-android/>

⁴ https://www.youtube.com/watch?v=y7iuNrrgr2A&ab_channel=DeconstructorofFun

1 22. *All in Hole* has stunning, colorful visuals that enhance the relaxing
 2 atmosphere. Each level unlocks new boosters and challenges and is uniquely designed
 3 with vibrant objects and environments that captivate the player's attention. Players
 4 can also revisit levels to improve their performance and earn better rewards, including
 5 the coveted three-star rating for the best in-game performance at a given level.

6 23. Players of *All in Hole* who wish to enhance their gaming experience or
 7 progress more quickly through the game's levels can purchase in-game coins,
 8 boosters, and additional time. Since *All in Hole* is a free-to-play game (*i.e.*, there is no
 9 cost to download and play the game) Homa relies on these in-game purchases to
 10 recoup its investment in the game. Homa also earns revenue from *All in Hole* through
 11 advertising.

12 24. Representative screenshots of *All in Hole* are included below:



25 26. *All in Hole* is the product of substantial effort by a team of developers
 27 that includes designers, artists, software engineers, and sound designers. *All in Hole*
 28 is a highly creative expressive work, featuring a variety of distinctive and original

1 game elements and art assets, a colorful and original user interface, complex and
 2 creative level design, and custom sound effects. Collectively, all of these distinctive
 3 and creative elements have imbued the game with a unique and original look and feel
 4 that stands out from other games in the field.

5 26. Homa is the owner of a valid and subsisting copyright registration in *All*
 6 *in Hole*, Registration No. PA 2-495-602, effective as of October 22, 2024. Homa's
 7 copyright in *All in Hole* includes all copyrightable subject matter encompassed
 8 therein, including its artwork, sound, user interface, screen displays, computer code,
 9 and other audiovisual, and graphic elements.

10 27. Homa's level designs and in-game maps also are protected by the
 11 Community design registrations Nos. 015079473-0001, 015077882-0001 issued
 12 respectively by EUIPO on November 18, 2024 and November 11, 2024.

13 **Defendants' Game *Food Swept / Yummy Hole Puzzle***

14 28. *Food Swept / Yummy Hole Puzzle* is a mobile game that is intended to
 15 replicate *All in Hole*. Homa is informed and believes, and on that basis alleges, that
 16 *Food Swept / Yummy Hole Puzzle* was developed by IEC or by a third-party studio
 17 commissioned by IEC and acting at its direction. On November 21, 2024, Defendants
 18 released or caused to be released *Yummy Hole Puzzle* on the App Store. On December
 19 20, 2024, Defendants released or caused to be released *Food Swept* on the Google
 20 Play.

21 29. Like *All in Hole*, *Food Swept / Yummy Hole Puzzle* is a casual mobile
 22 game centered around a black hole. As in *All in Hole*, players of *Food Swept / Yummy*
Hole Puzzle maneuver the black hole within a computer-generated environment to
 23 devour colorful fruits, vegetables, sushi, and other objects. Using a nearly identical
 24 hole to that featured in *All in Hole*, players progress through the *same* levels, puzzles
 25 and quests as in *All in Hole*. The two games are nearly indistinguishable: they include
 26 nearly identical levels, similar level layouts and maps, similar user interfaces, similar
 27 color schemes, similar icons, the same boosters, and even the same textual material.

1 30. As detailed further below, *Food Swept / Yummy Hole Puzzle* deliberately
2 mimics the theme, look and feel, level designs, maps, color combinations, specific
3 shapes and objects, graphic and sound effects, game progression, game interface, and
4 numerous other specific protectable elements of *All in Hole*.

Defendants' Access To All In Hole

6 31. Homa is informed and believes, and on that basis alleges, that, at the time
7 Defendants created and distributed *Food Swept / Yummy Hole Puzzle*, they had access
8 to *All in Hole*, via the game's widespread distribution on the app stores, and were
9 aware of its market success. *Yummy Hole Puzzle* was released on November 21, 2024,
10 around eight months after *All in Hole*, and *Food Swept* was released on December 20,
11 2024. Defendants thus had the opportunity to review and analyze *All in Hole*'s market
12 metrics, game's performance, and the game itself. This timing is no coincidence. Even
13 a cursory review reveals pervasive similarities in virtually every aspect of the games.
14 Those similarities render it apparent that Defendants copied major elements from *All*
15 *in Hole*, in violation of Homa's rights.

16 32. Furthermore, Defendants copied at least 503 JSON files from the *All in*
17 *Hole* computer code into *Food Swept / Yummy Hole Puzzle*. Each JSON file contains
18 detailed instructions concerning level design and object placement, and reflects the
19 creative expression of Homa’s developers and designers. Not only are the JSON files
20 themselves identical, but some of them even have identical titles. The presence of 503
21 JSON files in *Food Swept / Yummy Hole Puzzle* that are identical to those in Homa’s
22 game in is further evidence of Defendants’ blatant copying.

Food Swept / Yummy Hole Puzzle Is A Copycat Of All In Hole

24 33. *Food Swept / Yummy Hole* Puzzle copies protected expression from *All*
25 *in Hole* and is an undeniable clone of *All in Hole*. This is not just a matter of two
26 competitors developing similar games within the same genre or sharing similar
27 mechanics. The similarities identified by this Complaint, which are only a subset of
28 the infringing copying, are in no way dictated by the genre, the nature of the games,

1 or the rules. They are centered on specific creative decisions that Homa made in
 2 developing *All in Hole*, which Defendants proceeded to copy wholesale.
 3 Furthermore, as indicated above, Defendants also copied at least 503 JSON files from
 4 the *All in Hole* computer code into their game.

5 34. Homa created an original and distinctive game with numerous original
 6 elements and protectable expressions. Defendants copied virtually every innovation
 7 that Homa introduced, such as, among other things:

- 8 • Player interfaces
- 9 • Level layouts
- 10 • Level dimensions, *e.g.*, width and height
- 11 • Spatial organization of elements like grids, zones, and obstacles
- 12 • Coordinates—exact positions of objects on the axis
- 13 • Color choice and arrangement
- 14 • Primary shape of the game map
- 15 • User experience (UX) of core gameplay—time allocated per level,
 difficulty of each level
- 16 • Player boosters and upgrades
- 17 • Feature unlock sequences
- 18 • Point values associated with particular objects (*e.g.*, gold bars, food etc.)
- 19 • Player “onboarding flow,” such as specific priority levels, user
 instructions, and ad integration

22 35. As the non-exhaustive examples above show, the primary attributes of
 23 Defendants’ *Food Swept / Yummy Hole Puzzle* are substantially similar to the original
 24 and expressive elements of Homa’s *All in Hole*.

25 36. Defendants did not take merely the basic concept of a casual puzzle game
 26 based on capturing objects in a black hole. Rather, Defendants wholly
 27 misappropriated the very creative combination of elements that Homa developed.
 28 Homa carefully selected colors, shapes, layouts, and design aesthetics to create a

1 unique and engaging experience in *All in Hole*. Likewise Homa specifically designed
2 levels, boosters, and point values to make *All in Hole* captivating for players.

3 37. Defendants' copying of Homa's original work to create a substantially
4 similar puzzle game is readily evident. Every key element that has made *All in Hole*
5 so original and unique has been replicated by Defendants in *Food Swept / Yummy*
6 *Hole Puzzle*. As a result of Defendants' extensive copying, *All in Hole* and *Food*
7 *Swept / Yummy Hole Puzzle* are substantially similar in their total concept and feel.
8 The similarities between the games are not coincidental, especially when viewed in
9 the aggregate and in the context of the entire effect the games have on the player. Nor
10 are the similarities described in this Complaint merely the result of two games existing
11 in the same genre. They are the result of willful infringement by Defendants to poach
12 the market for Homa's game.

Level Layouts and Structural Similarities:

14 38. Defendants copied *All in Hole*'s level user interface; spatial organization,
15 size, and proportion of elements like grids, zones, and obstacles; coordinates—*i.e.*,
16 exact positions of objects on the axis; level dimensions; color choice and arrangement;
17 and primary shape of the game map. Screenshots below illustrate these similarities.

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All in Hole Level 1



Food Swept / Yummy Hole Puzzle Level 1



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39. As illustrated above, each game features a side panel that tracks the number of fruits/cakes collected and required for each level. The timer at the top indicates how much time a player has to finish the level. The graphics for these features are strikingly similar in *All in Hole* and *Food Swept / Yummy Hole Puzzle*. Players also have the same amount of time to complete the level in both games. The small pause button is notably placed in the same position on the screen in both games and is equivalent in size. The pointer/ cursor is also identical and is similarly placed in respect to the black hole. In both games, players are provided with the same text instructions (e.g., “move your/the hole” followed by the infinity sign). But the similarities do not end there.

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40. Similarities between the levels are noticeable as the games progress: *Food Swept / Yummy Hole Puzzle* levels keep replicating *All in Hole* in the user interface (“UI”) design, similar maps and in-game events. For example, on level 15,

1 players of *All in Hole* consume cups of coffee with their black holes, while players of
 2 *Food Swept / Yummy Hole Puzzle* collect cups of matcha latte that are similarly piled
 3 on top of each other.

4 ***All in Hole* Level 15 *Food Swept / Yummy Hole Puzzle* Level 15**



16 41. Level 20 in both games is nearly identical: players collect golden coins
 17 arranged in the same patterns, with the same time limit of 59 seconds.
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1 ***All in Hole Level 20***2 ***Food Swept / Yummy Hole Puzzle Level 20***

3 42. Both games have nearly identical boosters and related gameplay and UI.
4 As players progress in both games, they can unlock boosters that enhance the
5 gameplay by allowing players to collect items more efficiently. *Food Swept / Yummy*
6 *Hole Puzzle* copied not only the types of boosters, but also the accompanying text of
7 user instructions. *All in Hole* has four initial boosters unlocked by players during the
8 early levels of the game: “Bigger Hole,” “Compass,” “Magnet” and “Time Freeze.”
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10 43. In *All in Hole*, the first booster is a “Bigger Hole,” which allows users to
11 increase the size of the hole for 10 seconds. In *Food Swept / Yummy Hole Puzzle*,
12 there is an identical booster that is also the first one for players to unlock. The text of
13 the user instruction accompanying the “Bigger Hole” booster in both games also is
14 the same: “Increase the size of your hole for 10 seconds.”
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All in Hole*Food Swept / Yummy Hole Puzzle*

44. Both games also have the booster “Ti me Freeze.” This booster is nearly identical in *Food Swept / Yummy Hole Puzzle* and *All in Hole*. *Food Swept / Yummy Hole Puzzle* copied not only the title of the booster, but also the sequence of events unlocking the booster, as well as the accompanying instructions: “Stop the timer during 10 seconds.”

All in Hole*Food Swept / Yummy Hole Puzzle*

1 45. Other boosters in *Food Swept / Yummy Hole Puzzle* are also strikingly
2 similar: “Magnet” booster in *All in Hole* is “Vacuum” in *Food Swept / Yummy Hole*
3 *Puzzle*. Both boosters have the same description and functionality: they allow items
4 to whirl into the hole. Similar to the other copied boosters, the instructions are also
5 the same: “Attract items into your hole for 10 seconds.” This description is a clear
6 example of Defendants’ verbatim copying of *All in Hole*.

All in Hole



Food Swept / Yummy Hole Puzzle



18 46. Booster “Compass” in *All in Hole* is “R adar” in *Food Swept / Yummy*
19 *Hole Puzzle*. Just like the other boosters, these two boosters have strikingly similar
20 appearances, functionality, and text descriptions in both games. Both use the same
21 specific description: “Indicate the position of goal items for 15 seconds.”

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All in Hole*Food Swept / Yummy Hole Puzzle*

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47. The UI of the “lobby” or “home” page in both games is also strikingly similar. The fonts, the size and location of the black hole, the “unlock” bar, and the icons for the in-game shop and “home” are nearly identical. Notably, despite the variety of icons available to represent an in-game store, Defendant chose the same retro-style kiosk icon (displayed in the bottom left-hand corner). Also similar in both games, chests are placed on podiums with a mini-bar below them showing the player’s progress toward unlocking the reward.

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1 All in Hole Lobby**Food Swept / Yummy Hole Puzzle Lobby****Game Progression:**

17 48. *Food Swept / Yummy Hole Puzzle* replicated each level of *All in Hole* by
 18 implementing the same user interfaces, tasks, and incremental increases in difficulty.
 19 *Food Swept / Yummy Hole Puzzle* has not only taken *All in Hole*'s instructions and
 20 user interface, but has also copied *All in Hole*'s sequence and game progression, since
 21 each corresponding level of *Food Swept / Yummy Hole Puzzle* includes a similar
 22 degree of complexity and similar challenges.

Point Values Associated With Objects:

24 49. Both *All in Hole* and *Food Swept / Yummy Hole Puzzle* also include the
 25 same items (e.g., gold bars, food pieces, etc.), and have identical points and values
 26 associated with those items.

27 50. The similarities between *All in Hole* and *Food Swept / Yummy Hole*
 28 *Puzzle* are not incidental, nor are they dictated by the similar mechanics of the two

1 games nor the casual puzzle genre. In addition to copying the theme and style of game
 2 play of *All in Hole*, Defendants extensively copied specific copyrighted expression.
 3 Defendants' *Food Swept / Yummy Hole Puzzle* is an unmistakable copy of Homa's
 4 *All in Hole*.

5 **Defendants' Ongoing Willful Infringement Harms Homa**

6 51. Homa is informed and believes, and on that basis alleges, that all of the
 7 foregoing copying was deliberate and intentional and that, during the development of
 8 *Food Swept / Yummy Hole Puzzle*, Defendants used *All In Hole* as reference, and
 9 copied the design of each level, color combinations, design and locations of the
 10 individual game elements, user progression, sequence of events, titles and even the
 11 text descriptions of the in-game boosters and instructions. Defendants did so in order
 12 to capitalize on Homa's successful game and divert players from Homa to Defendants.

13 52. The similarities between *All in Hole* and *Food Swept / Yummy Hole*
 14 *Puzzle* are widespread and pervasive. The comparisons above are a representative, but
 15 not exhaustive, list of the striking similarities between the two games. The original
 16 game elements of *All in Hole* as well as Homa's creative selection and arrangement
 17 thereof that Defendants copied are protected. Defendants could have designed a
 18 casual puzzle game about a black hole in innumerable different ways, but instead they
 19 chose to use the very same original, protected expression that Homa had created for
 20 *All in Hole*.

21 53. Because of Defendants' willful conduct, *Food Swept / Yummy Hole*
 22 *Puzzle* has interfered with, and threatens to further disrupt, the growing success of *All*
 23 *in Hole*. Because *All in Hole* is a free game, Homa receives revenue primarily from
 24 in-app purchases and from advertisers who pay for ads to be displayed in or in relation
 25 to Homa's games. That means *All in Hole*'s game revenue is highly dependent on user
 26 engagement. Consequently, Defendants' *Food Swept / Yummy Hole Puzzle*
 27 jeopardizes the goodwill and player relationships that Homa has worked to develop.

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1 It interferes with Homa's ability to acquire new players, threatens to divert current
2 players, and harms Homa's ability to earn revenue from *All in Hole*.

3 54. Therefore, by this action, Homa seeks to prevent Defendants from any
4 further infringement and from causing any further harm to Homa.

COUNT I

(Copyright Infringement – 17 U.S.C. § 501 et seq.)

7 55. Homa re-alleges and incorporates by reference the allegations in
8 paragraphs 1 through 54 as if set forth fully herein.

9 56. Homa is the owner of a valid and enforceable copyright in *All in Hole*.
10 Homa has registered a copyright in *All in Hole*, Registration No. PA 2-495-602,
11 effective as of October 22, 2024.

12 57. Defendants have deliberately and intentionally copied the protectable
13 expression from *All in Hole* in *Food Swept / Yummy Hole Puzzle*.

14 58. Homa has never authorized nor given consent to Defendants to use its
15 copyrighted work in the manner complained of herein.

16 59. Thus, Defendants have infringed, and are continuing to infringe, Homa's
17 copyright by reproducing, adapting, distributing, publicly performing, and publicly
18 displaying, and authorizing others to reproduce, adapt, distribute, publicly perform,
19 and publicly display copyrighted elements of *All in Hole* without authorization, in
20 violation of the Copyright Act, 17 U.S.C. § 501 *et seq.*

21 60. Defendants' acts of infringement are willful, in disregard of, and with
22 indifference to, the rights of Homa.

23 61. As a direct and proximate result of the infringement alleged herein,
24 Homa is entitled to damages and to Defendants' profits in amounts to be proven at
25 trial, which are not currently ascertainable. Alternatively, Homa is entitled to
26 maximum statutory damages of \$150,000 for each copyright infringed, or in such
27 other amount as may be proper under 17 U.S.C. § 504(c).

1 62. Homa further is entitled to its attorneys' fees and full costs pursuant to
2 17 U.S.C. § 505.

3 63. As a result of Defendants' acts and conduct, Homa has sustained and will
4 continue to sustain substantial, immediate, and irreparable injury for which there is
5 no adequate remedy at law. Homa is informed and believes, and on that basis alleges,
6 that unless enjoined and restrained by this Court, Defendants will continue to infringe
7 Homa's rights in *All in Hole*. Homa is entitled to temporary, preliminary, and
8 permanent injunctive relief to restrain and enjoin Defendants' continuing infringing
9 conduct.

PRAAYER FOR RELIEF

11 WHEREFORE, Homa respectfully requests that this Court enter judgment in
12 its favor on each and every claim for relief set forth above and award it relief,
13 including but not limited to:

1. A judgment that Defendants have infringed Homa's copyright in
2 violation of the Copyright Act and that the infringement was
3 willful.
4. An order preliminarily and permanently enjoining Defendants,
5 their agents, servants, employees, officers, associates, attorneys,
6 and all persons and entities acting by, through, or in concert with
7 them, from manufacturing, producing, distributing, advertising,
8 marketing, offering for sale, or selling *Food Swept / Yummy Hole*
9 *Puzzle*.
10. Ordering Defendants to file with the Court and serve on Homa,
11 within thirty (30) days after entry of the injunction, a report in
12 writing under oath detailing compliance with the injunction.
13. Requiring Defendants to deliver to Homa all copies of materials
14 that infringe or violate any of Homa's rights described herein.

- 1 5. Requiring Defendants to provide Homa with an accounting of any
- 2 and all sales of products or services that infringe or violate any of
- 3 Homa's rights, as described herein.
- 4 6. Awarding Homa actual or statutory damages for copyright
- 5 infringement and willful infringement under 17 U.S.C. § 504, as
- 6 appropriate.
- 7 7. Awarding Homa its full costs and attorneys' fees in this action
- 8 pursuant to 17 U.S.C. § 505 and other applicable laws.
- 9 8. Imposing a constructive trust over the proceeds unjustly obtained
- 10 by Defendants through the sale of *Food Swept / Yummy Hole*
- 11 *Puzzle* in the United States or that stem from a predicate act of
- 12 infringement in the United States, and/or any other products or
- 13 services that violate any of Homa's rights described herein.
- 14 9. Awarding applicable interest (both prejudgment and post-
- 15 judgment), costs, disbursements, and attorneys' fees.
- 16 10. Awarding such other and further relief as this Court may deem
- 17 just, appropriate, and equitable.

18 DATED: January 27, 2025

19 MARC E. MAYER
20 EMILY F. EVITT
21 MITCHELL SILBERBERG & KNUPP LLP

22 By: /s/Marc E. Mayer
23 Marc E. Mayer (SBN 190969)
24 Emily F. Evitt (SBN 261491)
25 Attorneys for Plaintiff
26 Homa Games SAS

DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury of all issues so triable under the law.

DATED: January 27, 2025

MARC E. MAYER
EMILY F. EVITT
MITCHELL SILBERBERG & KNUPP LLP

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